

<b>Examiner-Initiated Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/769,574	BERNER ET AL.	

  

<b>Examiner</b>	<b>Art Unit</b>	
Andriae M. Holt	1616	

**All Participants:**

**Status of Application:** \_\_\_\_\_

(1) Andriae M. Holt. (3) \_\_\_\_\_.

(2) Susan Harlocker, Attorney. (4) \_\_\_\_\_.

**Date of Interview:** 31 December 2009

**Time:** 1:30 p.m.

**Type of Interview:**

- Telephonic  
 Video Conference  
 Personal (Copy given to:  Applicant     Applicant's representative)

Exhibit Shown or Demonstrated:  Yes     No

If Yes, provide a brief description: \_\_\_\_\_.

**Part I.**

Rejection(s) discussed:

*Double Patenting, new Enablement rejection*

Claims discussed:

1, 18-20, and 28

Prior art documents discussed:

**Part II.**

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

See Continuation Sheet

**Part III.**

- It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.  
 It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: The examiner contacted Ms. Harlocker to discuss ways to advance prosecution of the application. The examiner indicated the amendment to claim 1 would not overcome the double patenting rejection because the time of retention of 4-9 hours is still an obvious variant of US Patent No. 6,340,475, claim 19, section (d) wherein the time is up to 10 hours. The examiner suggested Applicant file a terminal disclaimer to overcome the rejection. The examiner also indicated that upon review of Applicant's specification, page 9, paragraph 29, a special definition for "treating" was discovered that included "prevention". Applicant is not enabled for prevention. The examiner suggested that Applicant amend the specification to cancel the term "prevention". Ms. Harlocker indicated she would speak with her supervisor and the client to discuss the information. 1/6/2010-Ms. Harlocker contacted the examiner to verify the claims that needed to have the terminal disclaimer filed. Ms. Harlocker also wanted to know if other limitations were added to independent claim 1 if the double patenting rejection could be overcome. The examiner indicated that the limitations added would have to be reviewed to see if they would overcome the rejection. 1/7/2009-Ms. Harlocker called to indicate the client proposed to add the limitations of claim 28, since they had been indicated as being allowable, to overcome the rejection and adding back original claims 2 and 3. This proposal was made to get around filing a terminal disclaimer. The examiner told Ms. Harlocker that the information would have to be reviewed with the Supervisory Patent Examiner. The examiner also told Ms. Harlocker that upon review of the claims, claim 28 should have been objected to, not allowed, because of its dependency on claim 1, which was rejected. 1/12/2009-The examiner spoke with Ms. Harlocker after meeting with the Supervisory Patent Examiner. The addition of the limitations of claim 28 would not overcome the double patenting rejection as the limitations of claim 28 are properties of the composition that would be inherent in the components of the composition. No agreement was reached. The examiner indicated that a Non-Final rejection would be sent to Applicant that would 1) maintain the double patenting rejection, 2) make an enablement rejection over claims 18-20 for the special definition of treatment in the specification, and 3) object to the claims that are properly dependent on claim 1, that were previously indicated allowable. Ms. Harlocker will respond to the Non-Final rejection once received.